

**IN THE UNITED STATES DISTRICT COURT
THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA

v.

CORY PATTON
Defendant

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CRIMINAL NO. 20-CR-00047-RP (3)

UNOPPOSED MOTION TO WITHDRAW

**TO THE HONORABLE JUDGE PITMAN, UNITED STATES DISTRICT JUDGE FOR
THE WESTERN DISTRICT OF TEXAS:**

COMES NOW undersigned counsel and hereby files this Motion to Withdraw as counsel based on the following:

I.

Undersigned counsel was appointed to represent Mr. Cory Patton on February 12th, 2021, in the above-referenced case. Mr. Patton is currently being detained in the McLennan County Jail.

II.

After receiving discovery on April 19th, 2021, Defendant's Counsel has discovered a conflict of interest due to prior representation of an individual related to Defendant's case.

III.

Defendant is currently set for docket call on May 13th, 2021, trial on May 24th, 2021, and a plea in the case is due on May 10th, 2021. On April 13th, 2021 Counsel filed a continuance on behalf of Defendant seeking a 60-day extension to all pretrial dates to which Counsel received no objection.

IV.

Defendant's Counsel filed a Motion to Compel on this matter that is currently set for hearing on April 27th, 2021 at 1:30pm. Dkt. 340, Dkt. 356. Counsel was tendered all discovery on the aforementioned date. In the Government's response, Counsel is alleged to have been disingenuous in his pleadings on Defendant's Motion To Compel. Dkt. 353. Counsel admits to an inadvertent and unintentional mistake in the language of the pleading, in that Counsel was in communication with the AUSA's Office regarding discovery, and issues arose with the timing of its production. The language was based off a form motion from the Public Defender's website. Counsel admits

an error to that respect.

V.

Counsel has conferred with Mark Marshall the AUSA assigned to the case and received no objection to the foregoing motion.

VI.

The interests of justice require that the Court approve the withdrawal of counsel and allow Mr. Patton to be appointed new counsel, as Counsel cannot ethically proceed with representation due to the newly surfaced conflict.

By: /s/ John de la Vina
John N. de la Vina
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512.897.3325 (p)
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Certificate of Service

I hereby certify that on the 20th day of April, 2021, I electronically filed the foregoing Motion with the Clerk of the Court using the CM/ECF system which will send notification to all registered parties of record, including:

Mark Marshall
Assistant United States Attorney 816 Congress Ave., Ste, 1000 Austin, Texas 78701

/s/ John de la Vina

John N. de la Viña